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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/723,786 | 11/26/2003 | Byron M. Ruch | 4388-A1 | 9056 |

45848 7590 10/11/2006

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EXAMINER

ADAMS, GREGORY W

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3652

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/723,786 | RUCH, BYRON M. | |
| | Examiner | Art Unit | |
| | Gregory W. Adams | 3652 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 16-19 is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Wymore (US 4,345,873).

With respect to claim 1, Wymore discloses a base, drive linkage 52, leveling linkage 54 (indicated by the fact that the lift mechanism is level in FIG. 3), a cylinder 62, and a lift mechanism (indicated generally as 56) movable between a lowered position and raised position (FIG. 3) relative to a drive and leveling linkage in an extended position. It is noted that coupled between is not exclusive to a positional relationship and may be interpreted as connecting one structure to another.

With respect to claim 2, Wymore discloses a drive linkage includes a drive link 52, pivotally coupled to the base and a drive arm pivotally, coupled to the drive link and the lift mechanism.

With respect to claim 3, Wymore discloses a frame 80 pivotally coupled to a base and terminating in an end, and a rod journalled concurrently through the drive arm and the end of the frame.

With respect to claim 4, Wymore discloses a leveling link 54 pivotally coupled to a base, a stop link 56 pivotally coupled to the leveling link 54 and a rod, and a leveling arm pivotally coupled to the stop link and a lift mechanism 70.

With respect to claim 5, Wymore discloses further including a second drive linkage 52 in parallel with a first drive linkage 52, and a second leveling linkage 54 in parallel with a first leveling linkage 54.

With respect to claim 6, Wymore discloses including a frame 80 pivotally coupled to a base and terminating in a journalled rod extending concurrently through the frame and drive arms of the drive linkage and the second drive linkage, wherein a cylinder is coupled to the drive linkage by the frame.

With respect to claim 7, Wymore discloses first and second leveling links are each coupled to a rod by a stop link.

With respect to claim 8, Wymore discloses a lift mechanism enabled for movement between the raised and lowered positions thereof with the drive linkage in the retracted configuration and the extended configuration, and disabled for movement between the raised and lowered positions thereof with the drive linkage in between the extended configuration and the retracted configuration. C3/L10-15

Claims 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Tipton (US 4,175,899).

With respect to claim 11, Tipton discloses a base mounted on a vehicle cargo deck, lift mechanism 40 movable between a lowered position 40" and a raised position 40 relative to a cargo deck and first and second drive linkages 30b and first and second

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leveling linkages 30a in an extended (FIG. 1) configuration, first drive linkage 30b parallel with second drive linkage 30b, first leveling linkage 30a parallel with a second leveling linkage 30a, frame 50 pivotally coupled to a base and terminating in a journaled rod 52, a journaled rod 52 that extends concurrently through frame 50 and drive linkage drive arm 30b (e.g. one each side), cylinder 60 coupled between a base and frame 50. Broadly interpreted, "concurrently" is defined as through a frame and drive arm and is not exclusive to multiple rods, merely that "a rod" connects multiple components.

With respect to claim 12, Tipton discloses a stop link 32.

With respect to claim 13, Wymore discloses a lift mechanism enabled for movement between the raised and lowered positions thereof with the drive linkage in the retracted configuration and the extended configuration, and disabled for movement between the raised and lowered positions thereof with the drive linkage in between the extended configuration and the retracted configuration. C3/L10-15

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wymore (US 4,345,873) in view of Olson (US 4,274,794) (previously cited). Wymore discloses a vehicle loader mechanism except for limit switches. Olson '794 discloses a vehicle

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loader mechanism 10 with limit switches 174, 196 mounted proximate cylinders 66, 108.

Olson '794 teaches that limit switches limit maximum frame 16 movement in both directions. C11/L52-59. Therefore, it would have been obvious to one skilled in the art to modify the vehicle loader mechanism of Wymore to add limit switches proximate cylinders, as per the teachings of Olson, to limit maximum frame movement in both directions.

Claims 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wymore (US 4,345,873) in view of Poindexter (US 5,651,657) (previously cited). Wymore discloses a vehicle loader mechanism except for carrying a base on tracks mountable in a vehicle. Poindexter discloses a vehicle loader mechanism 10 including a base 120 carried by tracks 33, 34 mountable in a vehicle. Poindexter '657 teaches that installing a base of a vehicle loader mechanism on tracks mountable in a vehicle with insignificant modifications to the vehicle provides lifting, reorientating, and loading of overheight loads into the vehicle. Therefore, it would have been obvious to one skilled in the art to modify the vehicle loader mechanism of Wymore to allow for carrying a base on tracks which are mountable in a vehicle, as per the teaching of Poindexter, such that insignificant vehicle modifications are required in providing a lifting, reorientating, and loading of overheight loads into the vehicle.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tipton (US 4,175,899) in view of Olson (US 4,274,794). Tipton discloses a vehicle loader mechanism except for limit switches. Olson '794 discloses a vehicle loader mechanism 10 with limit switches 174, 196 mounted proximate cylinders 66, 108. Olson '794

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teaches that limit switches limit maximum frame 16 movement in both directions. Col. 11, Ins. 52-59. Therefore, it would have been obvious to one skilled in the art to modify the vehicle loader mechanism of Tipton to add limit switches proximate cylinders, as per the teachings of Olson, to limit maximum frame movement in both directions.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tipton (US 4,175,899) in view of Poindexter (US 5,651,657). Tipton discloses a vehicle loader mechanism except for carrying a base on tracks mountable in a vehicle. Poindexter discloses a vehicle loader mechanism 10 including a base 120 carried by tracks 33, 34 mountable in a vehicle. Poindexter '657 teaches that installing a base of a vehicle loader mechanism on tracks mountable in a vehicle with insignificant modifications to the vehicle provides lifting, reorientating, and loading of overheight loads into the vehicle. Therefore, it would have been obvious to one skilled in the art to modify the vehicle loader mechanism of Tipton to allow for carrying a base on tracks which are mountable in a vehicle, as per the teaching of Poindexter, such that insignificant vehicle modifications are required in providing a lifting, reorientating, and loading of overheight loads into the vehicle.

Allowable Subject Matter

Claims 16-19

Response to Arguments

Applicant's arguments with respect to claims 1-15 have been considered but are moot in view of the new ground(s) of rejection. Applicant's arguments filed with respect to claims 16-19 are persuasive.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory W. Adams whose telephone number is (571) 272-8101. The examiner can normally be reached on M-Th., 8:00-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

GWA



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